

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JOHN R. DAVIES,

Plaintiff,

-v.-

Civil Action No.  
3:08-cv-1115 (GLS/VEB)

MICHAEL J. ASTRUE,  
COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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APPEARANCES:

OF COUNSEL:

**FOR THE PLAINTIFF:**

Hinman, Howard Law Firm  
P.O. Box 5250  
80 Exchange Street  
700 Security Mutual Building  
Binghamton, New York 13902-5250

EUGENE D. GAUGHNAN, ESQ.

**FOR THE DEFENDANT:**

Social Security Administration  
Office of Regional General Counsel  
Region II  
26 Federal Plaza - Room 3904  
New York, New York 10278

MARIA P. FRAGASSI  
SANTANGELO, ESQ.  
ELLEN E. SOVERN, ESQ.

GARY L. SHARPE,  
U.S. DISTRICT JUDGE

**ORDER**

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge Victor E. Bianchini, duly filed June 17, 2010. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge Victor E. Bianchini filed June 17, 2010 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that the defendant's motion for judgment on the pleadings is GRANTED and the plaintiff's motion for judgment on the pleadings is DENIED and that the decision of the Commissioner is AFFIRMED, and it is further

ORDERED, that the Clerk enter judgment and close the case, and it is further

ORDERED, that the Clerk of the Court is to mail copies of the Order to the parties.

IT IS SO ORDERED

Dated: July 14, 2010  
Albany, New York

Gary L. Sharpe  
Gary L. Sharpe  
U.S. District Judge